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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/806,027

03/22/2004

Thomas J. Wheeler

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05/05/2006

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EXAMINER

EPPS, TODD MICHAEL

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/806,027 | Applicant(s) WHEELER ET AL. | |
| | Examiner Todd M. Epps | Art Unit 3632 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the second Office Action **final** for serial number 10/806,027, Tool Securing Mechanism For Hangtag Assembly, filed on March 22, 2004.

Claim Objections

Claim 29 is objected to because of the following informalities: line 2, "handle and the handle and a portion of the shank" is confusing and should be -- handle, and wherein the handle and a portion of the shank --. Appropriate correction is required.

Claim 31 is objected to because of the following informalities: line 2, "the tool, the tool comprising" is confusing and should be -- a tool comprising --; and line 4 "a body, the body comprising a pair of apertures" should be -- a body with a pair of apertures -- Appropriate correction is required.

Claim 38 is objected to because of the following informalities: line 5, "second cable" should be -- second cable tie --

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 20-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding rejection of claims 20-30 under 35 U.S.C. 112 - 2nd paragraph, the word "tool" in claim 20, line 14 cites combination / subcombination problem. "Tool" is not positively cited in the preamble of claim 20, and it is considered as functional language. The applicant is not claiming "tool" in the body of claim.

Also, claim 1 recites the limitation "the two portions" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claims 21, 22, 24 - 28, and 30 are rejected as depending on rejected claim 20; claim 23 rejected as depending on rejected claim 22; claim 29 is rejected on depending on rejected claim 28.

Regarding rejection of claims 31-38 under 35 U.S.C. 112 - 2nd paragraph, the word "tool" in claim 31, line 2 cites combination / subcombination problem. "Tool" is not positively cited in the preamble of claim 20, and it is considered as functional language. The applicant is not claiming "tool" in the body of claim.

Claims 32-38 are rejected as depending on rejected claim 31.

Claim Rejections - 35 USC § 102

Claims 20, 21, 22, 23, and 25-35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,425,482 to Chiang.

Chiang '482 discloses a hangtag assembly (fig. 11) comprising: a body (40b); the body comprising a planar portion (40b) and a tool fastening mechanism (43b – lower portion); further comprises a front portion and a back portion, the front portion covering at least a portion of the tool; wherein a tool fastening mechanism comprising a planar

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surface (44b) offset from the planar portion for receiving a head of the tool between the surface and the portion; a recess (49b) formed in the surface; a pair of openings (72b) disposed through the fastening mechanism, wherein the pair of openings is disposed in the recess; a cable tie (70b), wherein the cable tie is a physically separate piece relative to the body and disposed through the pair of openings and in the recess so that the cable tie is behind the planar surface and the tool; wherein the planar portion comprises a hole (41b) therethrough for receiving a hook; wherein the planar portion comprises a concave portion (46b –edges) and further comprising a label (46b) disposed on the concave portion; further comprising a label disposed on the planar surface, the label concealing the recess, the openings, and the cable tie; wherein the planar portion comprises a recessed portion (42b) having a length substantially equal to a length of the head; wherein the head of the tool is exposed; wherein the tool further comprises a handle and wherein the handle and a portion of the shank are exposed; wherein the planar portion is substantially parallel to the planar surface; and wherein the body is constructed of plastic and the fastening mechanism is constructed of plastic.

Regarding claim 26, the tool is not a positive part of the claim. Therefore, this claim meets limitations of Chiang '482.

Claim Rejections - 35 USC § 103

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chiang '482 in view of U.S. Patent No. 5,295,422 to Chow.

Chiang '482 fails to disclose wherein the tool further comprises a cavity disposed partially therethrough, the opening is disposed in the cavity. Chow '422 discloses a tool with a cavity disposed partially therethrough, the opening is disposed in the cavity.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the tool of Chiang '482 with a tool as taught by Chow '422 since any kind of tools are usually within the skill level of an ordinary artisan. See *In Re Aller*, 105 USPQ 233 (CCPA 1955).

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chiang '482 in view of U.S. Patent No. 6,688,955 to Ruey-Zon.

Chiang '482 fails to disclose wherein the tool is a grinding wheel. Ruey-Zon '955 discloses a grinding wheel. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the tool of Chiang '482 with a tool as taught by Ruey-Zon '955 since any kind of tools are usually within the skill level of an ordinary artisan. See *In Re Aller*, 105 USPQ 233 (CCPA 1955).

Allowable Subject Matter

Claims 24, and 38 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art fails to disclose a second cable disposed through the second pair of holes, the opening, and the second pair of apertures.

Response to Arguments

Applicant's arguments filed February 28, 2006 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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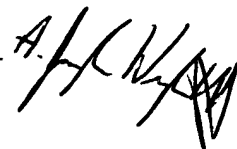
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps
Patent Examiner
Art Unit 3632
May 2, 2006

Joey Wujciak
Primary Examiner
Art Unit 3632

A handwritten signature in black ink, appearing to read 'A. H. Wujciak', is written over the printed name of the primary examiner.